

REMARKS

Claims 1-5, 7-60, 64-74, and 76-82 were rejected in an Office Action dated June 23, 2009. Support for the amendments may be found in the "Detailed Description of the Invention." Applicant respectfully requests reconsideration of the present application in view of the following remarks.

Rejections under 35 USC 103(a) – Over Mills in view of JP '192 in view of Payne

Claims 1-5, 7-14, 18, 19, 22, 24-35, 39, 40, 43, 45-47, 49-54, 56-60, 64-68, 71-74, 76-80, and 82 were rejected under 35 USC 103(a) as being obvious over Mills (US 5,964,465, hereinafter "Mills") in view of JP '192 in view of Payne (US 2,173,744, hereinafter "Payne").

Applicant respectfully traverses in view of the following comments. Applicant respectfully asserts that the combination of references do not disclose each element of Applicant's claims as described in detail below; therefore, removal of the rejection is proper.

Claims 1, 27, 48, and 56 and the claims dependent thereon, comprise among other things, the claim limitations of a gasket comprising at least two windings (or spirals) of a multilayer porous ePTFE tape joined together at tape side surfaces by an alternating winding of at least one substantially air impermeable layer.

In the instant application, Fig. 1 illustrates multiple windings of a tape (10) wound continuously for at least two windings at an increasing distance from a gasket inner periphery with alternating windings of a substantially air impermeable layer (11). The tape side surfaces are defined by the claims as surfaces that extend between upper and lower tape layers of the multilayer tape. See, for example, page 12 of the instant specification and Fig. 5. In Fig. 5, 56 refers to upper and lower tape layers of a multilayered tape and the tape side surface is defined as the edge (58) that extends between upper and lower tape layers.

None of the references, alone or in combination teach a gasket comprising a multilayer tape that is wound continuously for at least two windings around an inner periphery of a gasket where the at least two windings are aligned along tape side surfaces. None of the references, alone or in combination, teach a multilayer tape

wound continuously for at least two windings where the windings are joined at tape side surfaces by an air impermeable material.

Mills teaches a form in place gasket and does not teach a gasket with multiple windings of a tape around a gasket inner periphery. JP '192 does not remedy this defect because it is not directed to a tape. JP'192 teaches forming discrete concentric rings of ePTFE separated by impermeable material. Each of the discrete rings is formed by wrapping a single membrane layer around a mandrel until a desired thickness is achieved. A tape is not formed. Therefore, JP'192 cannot suggest a method for continuously winding a tape for at least two rotations at an increasing distance around an inner periphery and joining the multiple windings of tape at tape side surfaces.

Payne is not directed to a multilayer tape, and Payne does not teach joined windings. Therefore Payne cannot be relied on to correct the deficiencies of both references.

Also, not of the references teach methods of making gaskets having multiple windings of a multilayer tape aligned along tape side surfaces (the surface extending between upper and lower tape layers.) None of the references teach the steps of joining multiple tape windings at tape side surfaces (the surface between upper and lower tape layers) by an alternating winding of a substantially air impermeable material.

The wrapping process of JP'192 cannot be applied to modify the tape of Mills in a manner that results in Applicant's claimed gasket because it would not result in an impermeable material on a tape side surface. An impermeable layer introduced by the process of JP'192 would be between membrane layers of ePTFE rings, not between tape side surfaces. Payne does not remedy the deficiency where it is not directed to a multilayer tape, and where it does not teach joining tape rotations at tape side surfaces by an air impermeable layer. The spirals of packing material of Payne are not joined together. Thus, none of the references teach a gasket comprising a multilayer tape wound continuously for at least two windings and joined at the tape side surfaces.

It is stated in the Action that Payne teaches equivalence between a concentric gasket and a spiral gasket shape, therefore it would be obvious to modify the gasket of Mills in view of JP'192 by spirally winding the ePTFE layer and impermeable layer to form a gasket. Applicant strongly traverses this rejection for several reasons. First, even if equivalence were shown, Mills tape cannot be

modified in a manner that gets to the claimed gaskets by merely spirally winding layers of ePTFE membrane by methods taught in JP'192 for the reasons clearly set forth above – for example, it would not result in an impermeable material on tape side surfaces.

Second, “[i]n order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on ... the mere fact that the *components* at issue are functional or mechanical equivalents. *In re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958)” (MPEP 2144.06). The Office Action indicates that Payne teaches equivalent shapes for gaskets, and not on a comparison of an individual component taught in the art—thus, the rejection as stated is improper. Second, equivalence based on the gasket shape rather than a component would appear to be either a functional or mechanical equivalence, which is specifically prohibited for establishing a rejection based on obviousness.

Moreover, Payne describes a different structure and material than the gasket of JP'192, and Applicant's claims, and therefore, does not establish equivalence. Payne shows a single ring of packing material (Fig. 4) and a spiral of non-joined windings of packing material (Fig. 3). Payne, at column 1, line 40, states that Fig. 4 is a ring or a short length of packing bent around in the form of a split ring; it does not teach multiple concentric rings of a packing material joined together, and Fig. 3 does not show a structure of joined multiple concentric rings of packing material. Therefore, Payne does not show the same concentric structure as JP'192. Further, at column 2, it is stated that Fig. 4 teaches a length of packing rolled in a spiral. However, there is no teaching of multiple windings of either structure being joined together at side surfaces to form a coiled gasket as claimed by Applicant. Therefore, where Payne does not show the concentric structure of JP'192 or the spiral structure claimed by Applicant, equivalence between a gasket having concentric rings and a coil gasket having joined windings cannot be established.

Where all of the dependent claims contain all of the limitations of the independent claims from which they depend, Applicant deems these claims patentable for the reasons set forth above for the independent claims. Removal of the rejection of all claims is respectfully requested.

Conclusion

For the foregoing reasons, Applicant asserts that the claims are now in form for allowance. If further questions remain, Applicant requests that the Examiner telephone Applicant's undersigned representative before issuing a further Office Action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dianne Burkhard", written over a horizontal line.

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